

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

REGION 4

245 WEST BROADWAY, SUITE 350
LONG BEACH, CA 90802
(213) 590-4868



November 27, 1991

D.M. Lehmann
Solar Turbines, Inc.
Habor Drive Plant
2200 Pacific Highway
San Diego, California 92138-5376

Dear Mr. Lehmann:

CORRECTIVE ACTION ORDER, DOCKET NO. DO 91/92-4-001

Enclosed you will find a Stipulation and Order referencing the subject document. Please sign and date the Stipulation and Order and immediately return it to my attention at the above address. Please return the original Stipulation and Order and keep a copy for yourself. As the Department has received the check for the penalty amount of \$ 28,000.00, disregard the section of the Stipulation and Order that refers to that amount.

If you have any questions, please contact me at (213) 590-4985.

Sincerely,

A handwritten signature in cursive script that reads "Clarence Berman".

Clarence Berman
Unit Chief
Surveillance and Enforcement Branch

Enclosure

Certified Mail
P 035 001 185
Return Receipt Requested

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA DO 91/92 4-001
)	
Solar Turbines, Inc.)	STIPULATION AND ORDER
(Harbor Drive Plant))	
2200 Pacific Highway)	Health and Safety Code
San Diego, CA 92138-5376)	Sections 25187 and 25189.2
)	
Respondent)	
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The State Department of Toxic Substances Control
(Department) and Respondent agree as follows:

1. A dispute exists regarding the Corrective Action Order and/or Complaint for Penalty (Order and/or Complaint) issued by the Department on July 8, 1991. (Attached as Exhibit 1.)
2. Respondent does not admit the allegations made in the Order and Complaint, except as follows: Respondent admits the allegations made in the Order and/or Complaint for the purposes of any subsequent action for an alleged repeat or continuing violation directly related to a specific allegation made in the Order and/or Complaint brought pursuant to the Hazardous waste Control Act, Health and Safety Code section 25100 et seq., within five years of the date of the violations alleged in the Order and/or Complaint.
3. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
4. Jurisdiction exists pursuant to Health and Safety Code (HSC) sections 25187 and/or 25189.2.

to relieve Respondent of its obligation to obtain such formal approvals as may be required.

7.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

7.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and Federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

7.6. Modifications: The Department reserves the right to make such modifications as it may deem necessary to protect public health, welfare, and/or the environment. Such modifications may be issued as amendments to this Order and shall be effective upon issuance.

7.7. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to

the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

7.8. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

7.9. Site Access: Access to the the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling

and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

7.10. Sampling, Data, and Document Availability:

Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

7.11. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 7.17 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by

Respondent or its agents in carrying out activities pursuant to this Order.

7.12. Additional Enforcement Actions: By agreeing to this Stipulation and Order, the Department does not waive the right to take further enforcement actions.

7.13. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

7.14. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

7.15. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

7.16. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

7.17. Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants,

successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon any successor agency of the State of California that may have responsibility for and jurisdiction over the subject matter of this Order.

7.18. Compliance with Waste Discharge Requirements:

Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

PENALTY

8. Respondent shall pay the Department a penalty of \$28,000.00. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Within 30 days of the date this Order is fully executed Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control
Accounting Office
400 P Street, 4th Floor
P. O. Box 806
Sacramento, CA 95812-0806

A photocopy of the check shall be sent to:

Paula Rasmussen
Chief, Surveillance & Enforcement Branch
Department of Toxic Substances Control
245 West Broadway, Suite 350
Long Beach, California 90802

To: Toxics Legal Office
 Department of Toxic Substances Control
 400 P Street, 4th Floor
 P. O. Box 806
 Sacramento, CA 95812-0806

9. Each party should bear its own cost and attorneys' fees in this matter.

Dated: _____

Respondent

Dated: _____

Department of
Toxic Substances Control

bcc: Mr. James R. Cutright
Toxics Legal Office
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 98512-0806

Ms. Mary Locke
Chief Investigator
Office of Local Enforcement
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 98512-0806

Mr. Don Johnson, Chief
Surveillance and Enforcement
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 98512-0806

Mr. Val Siebal
Regional Administrator
Region 1
Department of Toxic Substances Control
10151 Croydon way
Sacramento, California 95827

Mr. Howard Hatayama
Regional Administrator
Region 2
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710

Mr. Dennis Dickerson
Regional Administrator
Region 3
Department of Toxic Substances Control
1405 San Fernando Blvd
Burbank, California 91504

Mr. Frank Laguna
Regional Coordinator
U.S. Environmental Protection Agency
Region 9
Mailstop H-4-1
75 Hawthorne Street
San Francisco, California 94105

Ms. Theodora Berger
Assistant Attorney General
Office of the Attorney General
3580 Wilshire Blvd., Room 800
Los Angeles, California 90010

Ms. Mary Avastu
San Diego County
Department of Environmental Protection
Hazardous Materials Management
1255 Imperial Avenue
San Diego, California 92101